

Purchase Order Conditions of ROHDE & SCHWARZ Regional Headquarters Singapore PTE LTD

Issued June 2011

1. Applicability

1.1. These purchase order conditions shall apply to all deliveries of goods or materials ("**Goods**") and supply of services or labour ("**Services**") (hereinafter collectively referred to as "**Subject Matter**") delivered and/or provided to ROHDE & SCHWARZ Regional Headquarters Singapore Pte Ltd (hereinafter referred to as "**RSRHQS**") by a contractor ("**Contractor**") and shall form part of the contract between RSRHQS and the Contractor in respect of the Subject Matter ("**Contract**").

1.2. The Contractor is aware that the Subject Matter purchased by RSRHQS may be integrated into end products of RSRHQS. RSRHQS will distribute the end products to its customers worldwide.

1.3. Every purchase order, order acknowledgment, and every delivery by the Contractor and/or acceptance or acknowledgement of delivery by RSRHQS shall be deemed to have been issued or made upon the terms of RSRHQS's purchase order and these purchase order conditions (collectively "**RSRHQS's Purchase Terms**"). RSRHQS's Purchase Terms shall always become an integral part of the Contract. The terms and conditions of the Contractor shall not become part of the Contract unless RSRHQS expressly agrees in writing. In the event of any inconsistency, RSRHQS's Purchase Terms shall prevail. No variation of RSRHQS's Purchase Terms shall be binding unless expressly agreed in writing by an authorized representative of RSRHQS. No employee or agent of RSRHQS is authorized to give any advice or make any representations concerning the Subject Matter unless confirmed by RSRHQS in writing. The Contractor acknowledges that it does not rely on, and waives any claim for breach of, any such advice or representation that is not so confirmed.

2. Purchase Order

2.1. Purchase orders shall be legally binding only if issued by RSRHQS in writing using a RSRHQS purchase order form and using a RSRHQS purchase order number unless otherwise agreed by the parties (e.g. electronic data interchange (EDI), vendor-managed inventory (VMI) or consignment stock).

2.2. The prices quoted in the purchase order are fixed prices exclusive of goods and services tax ("**GST**").

2.3. The Contractor undertakes to send off acknowledgments of purchase orders so that they are received by RSRHQS not later than 14 days after the date of the purchase order in each case, unless the Subject Matter is delivered within this period, in which case acknowledgments of purchase orders shall not be required.

3. Assignment / Subcontracting

3.1. The Contractor shall not be authorized to assign or transfer the Contract, or subcontract performance of its obligations under such Contract in whole or in part. However, if subcontracting is necessary, the Contractor shall be obliged to obtain the prior, written approval of RSRHQS. Approval shall only be refused for good cause.

3.2. In the event that subcontracting is permitted, this does not relieve the Contractor from its obligations to RSRHQS under the Contract.

4. Invoices

4.1. The Contractor shall make out a separate, verifiable and clear invoice for each purchase order. Each invoice shall state the purchase order details (RSRHQS purchase order number, date of purchase order, purchase order line item, material number, quantity and price).

4.2. The invoice shall be considered to be the final invoice unless otherwise designated by the Contractor.

4.3. RSRHQS shall reserve the right to reject invoices that do not comply with the legal requirements for input tax deduction. The goods and service tax shall be shown separately. The GST or VAT ID numbers of the Contractor and of RSRHQS shall be specified for each place of delivery.

5. Payments

5.1. Payment may be made within 60 days, provided that payments effected within 14 days shall be subject to a 3 % cash discount, and payments effected within 30 days shall be subject to a 2 % cash discount, unless specified otherwise. The mode of payment shall be determined by RSRHQS.

5.2. The term of payment shall begin when the Subject Matter has been completely supplied, delivered or accepted in accordance with RSRHQS's Purchase Terms and when the duly made-out invoice as per Clause 4 has been received by RSRHQS. If delivery of the Subject Matter is taken ahead of schedule, the term of payment shall begin on the agreed date of delivery. Cash discounts shall apply even if RSRHQS sets off amounts or withholds payments because of defects; the term of payment shall begin upon complete remedy of the defects.

5.3. If RSRHQS is required by law to make any tax deductions or withholding from any payment to the Contractor, it shall be entitled to do so without making up the difference to the Contractor.

5.4. Payments of any kind shall not constitute acknowledgment of the Subject Matter being in conformity with the Contract.

5.5. The Contractor shall not be entitled to pledge or charge by way of security or encumber in any way any of the Goods or any of the Contractor's rights or claims under its contract with RSRHQS, without RSRHQS's prior written approval. If the Contractor pledges or charges by way of security or otherwise encumbers the title to the Goods, no monies owing by RSRHQS to the Contractor shall be payable (without prejudice to any other remedy of RSRHQS).

6. Delivery of Goods / Performance of Services

6.1. Goods shall be delivered to and Services performed at the delivery address provided by RSRHQS ("**Delivery Address**") on the date or within the period agreed between the parties.

6.2. All agreed dates and times for delivery of the Goods or performance of the Services shall be of the essence and shall be binding, and any changes thereto shall require the prior written approval of RSRHQS. If the Goods are delivered or the Services performed prior to the agreed date, RSRHQS reserves the right to return it or (in the case of Services) reject it, at the expense and risk of the Contractor, or if the Goods are not returned, it may be stored at RSRHQS until the agreed date of delivery at the expense and risk of the Contractor.

6.3. If it is foreseeable that a deadline will not be met, the Contractor shall inform RSRHQS without undue delay in writing about the period of delay, stating the reasons. This shall be without prejudice to the right of RSRHQS to claim for liquidated damages or to assert any other rights and remedies due to the delay.

6.4. Whether the deliveries of Goods or the performance of Services are considered to have been made in due time shall depend on the date of their due and proper delivery and/or performance and (where Clause 9 applies) acceptance in accordance with the terms of the Contract, in particular Clauses 7 (*Transfer of Risk/Shipping Packing*), 8 (*Taking Delivery and Inspection*) and 9 (*Testing and Acceptance*). For avoidance of doubt, if RSRHQS is entitled to refuse to accept or take delivery of the Subject Matter, the Subject Matter shall be deemed not to have been supplied on schedule.

6.5. If the Goods are not delivered or the Services are not performed by the agreed date, whether in whole or in part, then, without limiting any other remedy of RSRHQS, the Contractor shall be liable to pay to RSRHQS liquidated damages. If payment has not yet been made to the Contractor, RSRHQS shall be entitled to deduct such amount of liquidated damages from the price of the Goods or Services due to the Contractor. The liquidated damages shall amount to 0.2% (zero point two percent) of the contract value for each full calendar day of delay, but shall not (in aggregate) exceed 10% (ten percent) of the contract value. Alternatively, if the damage caused by the delay exceeds the liquidated damages set out above, RSRHQS may elect in its sole discretion to claim such damages as compensation for the damage actually caused by the delay.

6.6. The Contractor is responsible for complying with and obtaining (at its sole cost and expense) whatever licences, permits and approvals required for the sale and delivery of the Goods and/or performance of the Services to RSRHQS in due time.

6.7. If Goods are to be delivered, or Services performed, by

installments, the Contract will be treated as a single contract and not severable. Failure by the Contractor to deliver any one or more of the installments in accordance with the Contract shall entitle RSRHQS to treat the entire contract as a whole repudiated.

6.8. Partial /short delivery or excess deliveries is not acceptable by RSRHQS unless specifically agreed to in writing by an authorized representative of RSRHQS.

7. Transfer of Risk / Shipment / Packing

7.1. The risk of damage to or loss of the Goods shall pass to RSRHQS only upon delivery and final acceptance by RSRHQS in accordance with the Contract, unless the parties agree otherwise.

7.2. RSRHQS shall be entitled to choose the carrier and the mode of transport. Shipment of Goods shall be in line with Incoterms 2010 (ICC Publ. No. 715 ED) DAT (Delivered At Terminal), unless specified otherwise, to the Delivery Address.

7.3. The Contractor shall be obliged to pay any extra costs incurred due to non-compliance with any shipping instructions or due to the use of a faster mode of transport that became necessary to meet an agreed date.

7.4. The Goods are to be packed in cartons or other packing materials, resistant to and protected against temperature changes, moisture and shocks, and suitable for long distance ocean/parcel post/air freight transportation along with inland transportation (whichever is the chosen mode of transportation). Wooden packing material must fulfill IPPC-Standard ISPM No.15. Furthermore, 1 (one) full set of operation instructions/manuals (if applicable) in the English language or other information required to enable RSRHQS to accept delivery of the Goods or performance of the Services shall be enclosed in the cartons or other packing materials together with the Subject Matter, unless otherwise agreed. .

7.5. Each delivery shall be accompanied by packing or delivery notes specifying the contents and the necessary purchase order details (RSRHQS purchase order number, date of purchase order, purchase order line item, material number and quantity). Non-compliance with these requirements may delay taking delivery and payment, and RSRHQS shall be entitled to refuse to take delivery of the Subject Matter.

8. Taking Delivery and Inspection

8.1 RSRHQS shall be entitled to reject and not to take delivery of or accept any Goods delivered or Services performed, in accordance with the Contract, including pursuant to Clauses 7 (*Transfer of Risk/Shipment/Packing*) and, where applicable, 9 (*Testing and Acceptance*). RSRHQS shall not be liable for any failure or delay in taking delivery or accepting any Goods or Services if this is due to *force majeure*. In this clause, *force majeure* shall mean any circumstance or event beyond the reasonable control of RSRHQS, including without limitation, acts of God, war, riot, hostilities, acts of terrorism, embargo, legislation, regulations or directives of any government or authority, power failure, failure of telecommunications, failure or breakdown of plant, machinery or vehicles, disease or epidemic.

8.2 Taking delivery shall not constitute acknowledgment of the Subject Matter being in accordance with the Contract.

8.3. RSRHQS shall have a reasonable time to inspect any Goods delivered or Services performed . Without prejudice to or limiting the preceding sentence, RSRHQS is entitled to no less than 14 (fourteen) days after inspection of the Goods or Services or 14 days after detection of any latent defects, to notify the Contractor of the same.

8.4. RSRHQS is entitled to perform only sample inspections which cover a reasonable number of items of each delivery or, in the case of multiple deliveries, a reasonable number of such deliveries, and such sample inspections shall not prejudice the right of RSRHQS to subsequently reject any Goods that were the subject of such sample inspections, for reason of non-compliance with the terms of the Contract.

8.5. The Subject Matter may also be examined by third parties nominated by RSRHQS.

9. Testing and Acceptance

9.1. This Clause 9 shall apply to all Subject Matter that is subject to acceptance by RSRHQS, as indicated in the purchase order or otherwise.

9.2. If the Subject Matter has attained acceptance level, the Contractor shall make the Subject Matter available to RSRHQS for acceptance. The complete results of the acceptance test shall be documented in an acceptance test record. Such inspection and testing shall be in accordance with the customary established inspection and testing procedures and/or with the requirements of RSRHQS's respective customer, unless otherwise specified.

9.3. Depending on the result of the acceptance test, RSRHQS shall declare one of the following without undue delay upon completion of the acceptance test:

– Overall acceptance if the Subject Matter fully complies with the requirements specified in the Contract.

– Partial acceptance if, in the case of a contractually agreed partial delivery, the Subject Matter has been delivered in part in accordance with the Contract (partial acceptances shall be provisional and subject to successful overall acceptance). Refusal of acceptance if the Subject Matter does not comply with the requirements specified in the Contract (save for minor defects). If RSRHQS is not satisfied that the Goods or Services will comply in all respects with RSRHQS's Purchase Terms, the Contractor shall take such steps as are necessary to ensure compliance at its own expense. This is without prejudice to RSRHQS's other remedies, at its sole election.

9.4. If no defects, or only minor defects, are discovered during the acceptance test (successful acceptance test), the acceptance certificate shall be prepared and executed by RSRHQS together with the acceptance test record, even if no representative of the Contractor is present. Notwithstanding the acceptance certificate, the Contractor's obligation to eliminate minor defects without undue delay shall remain unaffected.

9.5. The day on which the acceptance test is successfully completed shall be considered the date of acceptance.

9.6. Two copies of the acceptance certificate and the acceptance test record shall be prepared and signed. If the Contractor or one of its representatives is present at the acceptance test, the Contractor or its representative shall immediately receive one copy each of the acceptance certificate and the acceptance test record. If neither the Contractor nor its representative is present, one copy of each document shall be sent to the Contractor. If the acceptance certificate and the acceptance test record are sent to the Contractor, the Contractor shall acknowledge their receipt in writing without undue delay.

9.7. The procedure specified in Clause 9.6 shall also apply if acceptance is refused.

9.8. Acceptance shall only be made by a signed acceptance certificate and there shall be no deemed acceptance. In particular, actually using the Subject Matter by RSRHQS shall not constitute or be considered as (deemed) acceptance.

9.9. For avoidance of doubt, notwithstanding any inspection, tests, approval (including design approval) or acceptance of the Goods or Services or payment for the same, the Contractor shall not be relieved from its responsibility and shall be liable for any defects in the Goods or Services or other failures to meet the requirements of the Contract, or for latent defects, fraud and Contractor's warranty obligations.

10. Standard and Custom Software / Right of Use / Transfer of Rights

10.1. If the Goods or Services include off the shelf software ("**Standard Software**"), the Contractor shall grant RSRHQS, without further charge or expense, the irrevocable, non-exclusive and transferable right, unlimited in time and space, to use the Standard Software, and to sublicense such right to other companies of the ROHDE & SCHWARZ group. This right to use the Standard Software shall include, but not being limited to the right to run the Standard Software in any manner at RSRHQS or third-party facilities, as well as to modify, reproduce and distribute, demonstrate or transfer it over wireline or wireless channels at the discretion of RSRHQS. RSRHQS shall also be authorized to use the Standard Software free-of-charge for test purposes prior to acceptance.

10.2. With regard to software specially developed for RSRHQS ("**Custom Software**"), the Contractor shall grant RSRHQS the irrevocable, exclusive and transferable right without further charge or

expense, unlimited in time and space, to use this Custom Software in any manner throughout the companies of the ROHDE & SCHWARZ group, e.g. to run it in any manner at RSRHQS or third-party facilities, as well as to modify, reproduce and distribute, demonstrate or transfer it over wireline or wireless channels at the discretion of RSRHQS. RSRHQS shall be authorized to use the Custom Software free-of-charge for test purposes prior to acceptance. RSRHQS shall furthermore be authorized to transfer these rights in whole or in part to third parties or to grant rights of use to third parties without requiring the Contractor's approval in each case.

10.3. In the case of Custom Software, the Contractor shall be obliged to transfer the ownership of the program source code in a higher-level programming language. The source code shall include not only the program code itself, but also documentation describing and explaining the program code; this documentation shall be comprehensive enough to enable an adequate understanding of the structure and functions of the program after a reasonable training period. This obligation shall be considered a material obligation under the Contract.

10.4. If the Custom Software developed for RSRHQS is patentable or part or subject matter of an invention, the Contractor shall transfer all rights to and from the invention to RSRHQS already at this stage. The remuneration agreed upon for the purchase order concerned shall cover any remuneration for this transfer of rights.

11. Open Source Software

11.1. When submitting its quotation or tender offer – the Contractor is obliged to inform RSRHQS whether the Contractor's Goods and Services contain open source software.

11.2. If the Contractor's Goods and Services contain open source software, the Contractor shall provide RSRHQS with the following:

- Source code of the open source software if the applicable open source license conditions require the disclosure of the source code,
- List of all open source files used and information about the license applicable in each case as well as a copy of the entire license text,
- Written declaration that the proper use of open source software neither subjects the Goods and/or Services supplied by the Contractor nor the products of RSRHQS or Rohde & Schwarz to a copyleft effect. Copyleft effect as used within this provision means that the open source license conditions require that specific Goods and/or Services supplied by the Contractor as well as any work derived therefrom may only be distributed under the terms of the open source license conditions, e.g. by disclosing the source code.

11.3. If the Contractor informs RSRHQS only after receipt of the purchase order or not at all of the fact that the Contractor's Subject Matter contains open source software, RSRHQS shall be entitled to rescind the Contract within 14 days from receipt of the information and conveyance of all information mentioned in the paragraph above or within 14 days from the date this information is acquired. This is in addition and without prejudice to any warranties, indemnities, remedies or other rights (express or implied) of RSRHQS (whether pursuant to common law, statute or otherwise).

12. Documentation / Virus-Free Software

12.1. Unless agreed otherwise, Custom Software and/or Standard Software (collectively "Software") shall be delivered together with documentation in English. The documentation shall be made available as hardcopy or in a form that is suitable for generating a printout.

12.2. The Contractor warrants that the Software shall be free of all viruses. Without prejudice to this warranty, the Software shall be checked by means of a state-of-the-art virus search program in due time prior to delivery. The Contractor shall declare that the virus check did not reveal any functions that could cause damage when using the Software. The Contractor shall be obliged to document the virus check and to submit this documentation to RSRHQS upon request.

12.3. If the Contractor again performs a virus check on the Subject Matter after handing it over to RSRHQS and detects viruses during this check, the Contractor undertakes to inform RSRHQS without undue delay in writing. If the Contractor possesses debugged versions of the Subject Matter, the Contractor undertakes to make these versions available to RSRHQS free of charge during the term of the limitation period pursuant to Clause 14.5.

13. Passing of Title

The title to the delivered Goods shall pass to RSRHQS upon delivery in accordance with the Contract.

14. Warranties / Material Defects and Defects of Title

14.1. In addition and without prejudice to all other warranties, indemnities, remedies or other rights (express or implied) and whether pursuant to statute, common law or otherwise, the Contractor warrants to RSRHQS that the Goods and Services:

- (a) will be of satisfactory quality and fit for any purpose held out by RSRHQS or made known to the Contractor at the time the order is placed;
- (b) will be free from defects in design, material and workmanship;
- (c) will correspond with any relevant specification or sample; and
- (d) will comply with all statutory requirements and regulations relating to the sale and provision of the Goods or Services.

14.2. The Contractor warrants to RSRHQS that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for RSRHQS to expect in all the circumstances.

14.3. The Contractor warrants that it has good title and property to the Goods, which is free and unencumbered, and that it has the right, power and authority to sell and supply the Goods and Services.

14.4. All warranties extend to all parts, materials or equipment not manufactured by the Contractor.

14.5. The express warranties and all other warranties, conditions or other terms implied by statute or common law shall apply and survive delivery, inspection or testing, acceptance and payment. In addition to and without limitation to any other rights and remedies RSRHQS may have, if Goods or Services are found not to be warranted, or to have any defects or defects of title, within a period of 36 months from delivery or acceptance, whichever shall occur later, then RSRHQS shall be entitled at its sole option:

- (a) to require the Contractor (at Contractor's expense) to repair the Goods or to supply replacement Goods or reperform the Services in accordance with the Contract without undue delay, however not later than within seven calendar days; or
- (b) whether or not RSRHQS has previously required the Contractor to repair the Goods or to supply any replacement Goods or reperform the Services, to treat the Contract as terminated by the Contractor's breach and require the repayment of any part of any payment which has been made.

14.6. The Subject Matter complained about due to defects shall remain the property of RSRHQS until its replacement and shall become the property of the Contractor when the replacement item is handed over to RSRHQS.

14.7. The Contractor shall bear the costs and risk of collecting any defective Goods from RSRHQS and of delivering the replacement to RSRHQS.

14.8. Any Goods or Services repaired, replaced or reperformed, shall be subject to the provisions of Clause 14.5 for a further period of 36 (thirty-six) months from the receipt of the repaired or replaced Goods or the reperformed Services.

14.9. The Contractor undertakes to inform RSRHQS without undue delay if the Subject Matter already delivered deviates from specifications, exhibits potential quality problems or problems due to product modifications that actually or possibly affect the reliability or characteristics of the Goods, or exhibits defects in additional components (e.g. documentation) that are included in the scope of delivery.

14.10 RSRHQS reserves the right to define additional measures (e.g. remedy of defects without undue delay at RSRHQS and – in the case of Goods already delivered – at the end customer's premises). RSRHQS shall exclusively define the content and extent of any recalls that become necessary. The costs incurred shall be borne by the Contractor and shall be paid as an advance payment upon the initial request of RSRHQS.

15. Rights and Liability of Contractor

15.1 The Contractor agrees that the rights and remedies expressly set out in RSRHQS's Purchase Terms are the only remedies available to it.

15.2 In addition and without prejudice to all other warranties, indemnities, remedies or other rights (express or implied) and whether pursuant to statute, common law or otherwise, the Contractor shall be liable to and indemnify RSRHQS in full against all liability, loss, damages, death or injury, costs and expenses (including legal expenses) or any consequential loss or damage (whether loss of profit or otherwise) or other claims for consequential compensation whatsoever asserted by or against, awarded against or incurred or paid or agreed to be paid by RSRHQS as a result of or in connection with:

- (a) any breach of or failure to perform any warranty, condition or other term of the Contract or any duty at common law, by the Contractor;
- (b) any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trademark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specification supplied by RSRHQS;
- (c) any liability under any applicable consumer protection legislation in respect of the Goods or Services;
- (d) any act or omission of the Contractor or its employees, agents or sub-contractors in supplying, delivering and installing the Goods; and
- (e) any act or omission of the Contractor or its employees, agents or sub-contractors in connection with the performance of the Services.

15.3 The Contractor shall maintain insurance coverage satisfactory to RSRHQS to cover the above, and upon RSRHQS's request, shall furnish RSRHQS with evidence of such insurance in a form satisfactory to RSRHQS.

16. Quality Control / Quality Assurance / Product Modifications

16.1. The Contractor shall deliver the Subject Matter in accordance with the relevant specifications or drawings.

16.2. The Contractor shall inform RSRHQS about any potential improvements or cost savings regarding the Subject Matter.

16.3. Modifications of the Subject Matter by the Contractor shall require the prior written approval of RSRHQS. In case of such approved modifications the corresponding specifications or drawings shall be modified by the Contractor accordingly.

16.4. The Contractor undertakes to deliver the Subject Matter in accordance with the requirements of an appropriately documented quality assurance system (e.g. DIN ISO 9000 ff.). The Contractor shall keep records especially of its quality tests and inspections and make them available to RSRHQS upon request. The Contractor shall inform RSRHQS in writing and without undue delay about essential changes of the Contractor's quality management assurance system.

16.5. RSRHQS shall be entitled to carry out quality tests and inspections (audits) at the Contractor's premises or have them carried out by third parties.

17. Safety / Environmental Compatibility / Packing

17.1 The Subject Matter must comply with the latest state of the art, applicable statutory provisions, and the applicable regulations and directives of government authorities, and relevant trade associations and professional associations. The Contractor shall be obliged to carry out free-of-charge modifications without any special order and upon prior notification of RSRHQS if these modifications are required due to the further development of the generally accepted rules of technology or due to the introduction or modification of statutory provisions and government regulations. The Contractor shall be obliged to indemnify RSRHQS against any claims arising from the breach of Clause 17, especially if the Contractor is responsible for damage under any product liability laws.

17.2 Wherever commercially and technically feasible, the Contractor shall make sure that environmentally compatible products and processes are used for the production or provision of the Subject Matter as well as for supplies and additional services rendered by third parties.

17.3 The Contractor shall provide the Subject Matter with suitable and environmentally compatible packing as necessary and appropriate. At the request of RSRHQS, the packing material shall be taken back free of charge at the place of delivery and be disposed of in line with the applicable laws and regulations. If the packing material is not taken back, RSRHQS shall be entitled to have it disposed of or recycled in accordance with applicable laws and

regulations at the Contractor's expense.

17.4 At the request of RSRHQS, the Contractor shall take back free of charge any electrical and electronic equipment in respect of which an obligation of collection exists and shall dispose of this equipment in accordance with the applicable law and regulations. For this purpose, a local return facility must be created. If the equipment is not taken back, RSRHQS shall be entitled to have it disposed of at the Contractor's expense in accordance with the applicable law and regulations.

17.5 The Contractor shall be liable for the environmental compatibility of the Subject Matter and packing materials, as well as for any damage arising from the breach of the Contractor's obligations in relation thereto. At the request of RSRHQS, the Contractor shall make out a free-of-charge certificate of inspection to satisfy any applicable environmental regulation or requirement for the delivered Subject Matter.

18. Proprietary Information/Confidentiality

18.1. All information or material obtained or received by the Contractor from RSRHQS for the purposes of or pursuant to the purchase order, shall be received in confidence and shall, together with any documents prepared by the Contractor on the basis of specifications given by RSRHQS, remain the property of RSRHQS. All such information, material and documents as well as any items produced on the basis of these documents may not be reproduced or disclosed to third parties or used by the Contractor for purposes other than those specified in the Contract without the written approval of RSRHQS. They shall be reasonably protected against unauthorized inspection or use. Without prejudice to any other rights and remedies of RSRHQS, RSRHQS may claim their return or destruction without undue delay if the Contractor breaches these obligations.

18.2. The Contractor shall regard the conclusion of the Contract and the associated purchase order as well as all resulting work, documents and information in tangible or intangible form that may be provided by RSRHQS or produced for RSRHQS, as confidential information and the same confidentiality obligations in Clause 18.1 would apply. The Contractor shall be liable for any damage caused to RSRHQS by the breach of any of these obligations, which shall include the Contractor procuring that its employees and any third parties commissioned by the Contractor observe these obligations as if it were a party to the Contract.

18.3. If the Contractor discovers that an unauthorized third party has obtained possession of confidential information or that a confidential document has been lost, the Contractor shall inform RSRHQS without undue delay.

18.4. The non-disclosure obligation shall continue notwithstanding the termination of the contractual relationship.

18.5. The Contractor may disclose its business relations with RSRHQS only after having obtained the written approval of RSRHQS to do so.

19. Provisions Governing Export Control and Foreign Trade Data

19.1. The Contractor shall comply with all requirements of the applicable national and international customs and foreign trade and payments law ("foreign trade and payments law"). The Contractor shall provide to RSRHQS in writing at the latest two weeks after ordering or, in the case of modifications, without undue delay all information, data and declarations that RSRHQS requires in order to comply with the foreign trade and payments law in the event of export, import and re-export, including in particular the following:

– All applicable export list numbers including the Export Control Classification Number (ECCN) in accordance with the US Export Administration Regulations (EAR) or the US Munitions List Number (USML) if the International Traffic in Arms Regulations (ITAR) become applicable,

– The statistical goods number pursuant to the current goods classification of the foreign trade statistics as well as the Harmonized System (HS) code, and

– The country of origin (non-preferential origin) and, if required by RSRHQS, suppliers' declarations regarding the certificates of preference.

19.2. The Contractor shall be liable for any damage suffered by RSRHQS due to the improper or delayed submission of information, data or declarations.

20. Third-Party Property Rights

20.1. The Contractor warrants that the Subject Matter is free from and does not infringe third-party property rights (including intellectual property rights) that exclude or limit the intended use of the Subject Matter by RSRHQS and/or its customers or other companies of the ROHDE & SCHWARZ group.

20.2. If the intended use of the Subject Matter or parts thereof is impaired or prohibited by a claim due to infringement of third-party property rights or if the threat of such an impairment or prohibition exists, the Contractor shall defend RSRHQS against such claims, impairment or prohibition and shall be liable to and indemnify RSRHQS and its customers for all resulting damages, costs and expenses (including but not limited to the costs of defending any alleged infringement) and without prejudice to the aforementioned, the Contractor is authorized and obliged to do one of the following and at the Contractor's own costs within a reasonable period:

– to modify or to replace the Subject Matter or the affected part thereof in such a manner that no third-party property rights are infringed or violated, provided that this modified or replaced Subject Matter nevertheless conforms to the Contract, or

– to procure for RSRHQS the right to use the Subject Matter without restrictions and without additional costs for RSRHQS.

If the Contractor does not meet its obligations herein within a reasonable period of time despite being requested by RSRHQS, RSRHQS shall be entitled to procure from the holder of the property rights and at the expense of the Contractor the license to utilize the affected Subject Matter in accordance with the Contract. To the extent possible, RSRHQS shall include the Contractor in the contract negotiations with the holder of the property rights and shall take into consideration the legitimate interests of the Contractor.

20.3. The Contractor shall assume the sole and unlimited liability *vis-à-vis* third parties asserting a claim due to the infringement of property rights by the Subject Matter. The indemnification in Clause 20.2 above includes all costs and expenses that are incurred by and which may have been paid by RSRHQS in connection with the assertion of a claim by a third party. In the event of indemnification, RSRHQS undertakes to grant to the Contractor, to a reasonable extent, requested support in view of the claims being asserted, and the costs for this support shall be borne by the Contractor.

21. Change of Control

For so long as there remain obligations that are unperformed or continuing on the part of the Contractor pursuant to the Contract, RSRHQS shall be entitled to terminate the Contract with immediate effect without claim or compensation if there is a significant change in the shareholdings in the Contractor's company, in particular where competitors of RSRHQS acquire shares in the Contractor. The Contractor shall give RSRHQS reasonable prior written notification in writing about such changes.

22. Product Discontinuation / Spare Parts / Service

22.1. The Contractor shall be obliged to inform RSRHQS in writing, giving prior reasonable notice and details about any plans for product discontinuation and to specify substitute products, if available. Moreover, the Contractor shall submit to RSRHQS a binding last stockpiling offer. The Contractor shall be liable for any damage suffered by RSRHQS because of incorrect or delayed information (e.g. acquisition of replacements from third parties, third-party replicas and redesigned products).

22.2. The Contractor shall be obliged to offer spare parts and adequate service, if required, for the Subject Matter for a period of ten (10) years after expiry of the warranty period pursuant to Clause 14 at generally accepted market terms.

23. Compliance

23.1. The Contractor shall be obliged to comply with all applicable and local laws, ordinances, rules and regulations. In particular, the Contractor shall neither actively or passively, nor directly or indirectly participate in any form of corruption or bribery, and shall ensure compliance with the internationally applicable human rights in its sphere of influence.

23.2. If the Contractor breaches these obligations, without prejudice to any of its other remedies, RSRHQS shall have the right to rescind *ab initio* (where possible) or terminate the Contract, without prejudice to any further claims it may have. If it is possible to remedy the said breach, RSRHQS may exercise this right of rescission or termination only after a reasonable period of time is granted for remedying the breach and such period expires without the breach being remedied to RSRHQS's satisfaction.

24. Contracts (Rights of Third Parties) Act

The Singapore Contracts (Rights of Third Parties) Act 2001 ("the Act") shall not apply to any Contract and no person not party to a Contract shall have or acquire any right to enforce any term of it pursuant to the Act. This clause shall not affect any right or remedy of any third party which exists or is available otherwise than by reason of the Act.

25. Place of Jurisdiction / Applicable Law / Miscellaneous

25.1. The Contract between the Contractor and RSRHQS shall be governed by the laws of Singapore, excluding the conflict-of-law rules. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

25.2. The courts of Singapore shall have exclusive jurisdiction in case of any disputes arising directly or indirectly from the Contract between RSRHQS and the Contractor. The Contractor irrevocably submits itself to the jurisdiction of the Singapore courts.

25.3. The language of the Contract shall be English. If the contracting parties use another language in addition to English, the version in the English language shall prevail.

25.4. The failure of RSRHQS to insist upon the performance of any terms of the Contract by the Contractor, or to exercise any right or privilege granted to RSRHQS shall not be treated as a waiver by it of any of the terms of the Contract. No waiver of a breach by RSRHQS shall be considered as a waiver of any future breach of the same or other provision of the Contract.

25.5. If any provision of the Contract is found to be illegal or otherwise unenforceable, the other provisions of the Contract shall not be affected thereby and shall remain in full force and effect.